

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW MEXICO

GEORGE GALLEGOS

Plaintiff,

v.

Civ. No. 15-00638 RB-KK

RICHARD TRUJILLO and JASON
GALLEGOS, in their individual capacities, and
THE CITY OF ESPANOLA,

Defendants.

AFFIDAVIT

I, George Gallegos, state as follows:

1. I am the plaintiff in this case. On February 21, 2014, I was 48 years old. I am about 5'8" and weigh about 135 lbs. As a result of cancer, I have a complete prosthesis on one knee secondary to a bone tumor and have only a metal rod from my hip to my knee. I am totally disabled. My disability is obvious to see when I walk as my walk is unstable and shaky. My knee is very unstable and I have fallen several times over the past two years when it gave way. I cannot run and my walk is visibly unstable.

2. On the morning of February 21, 2015, at around 7:30 or so, I walked my son and my partner's daughter to the school bus stop on Railroad Avenue, in Espanola, New Mexico, to wait with them for the bus to arrive.

3. I was standing quietly with the children in the area of the bus stop, when two Espanola City police officers drove up at about the same time in separate vehicles to the area where I was standing. They both pulled up behind me, coming from a southerly direction, and parked their cars in a manner so that the cars were facing north.

4. The two officers got out of their vehicles and approached me. I put my hands out in front of me, with my palms facing upwards, and asked: "What's up?" The officers

were within a few feet of me at this point. Officer Trujillo was to my left while Officer Gallegos was to my right. Both were facing me.

5. Officer Trujillo responded by grabbing my left arm. He twisted it and pushed it up behind my back while turning me to face a police car and pushing me on the car. I could not see what was going on behind me but felt my right arm being twisted behind my back. I did not see who had my right arm but it must have been Officer Gallegos since no one else was there but he and Officer Trujillo. I was handcuffed and I believe I heard Officer Trujillo tell Officer Gallegos to put the cuffs on me. Officer Trujillo yelled at me and I was crying out in pain due to the pain I felt in my left shoulder area when Officer Trujillo twisted my left arm. Prior to being grabbed by Defendants, neither one of the officers told me they wanted to conduct a pat down search. I had no weapons on me. I did not have my hands in my jacket pockets at the time I was grabbed by the officers and I did not try and pull away from them after I was grabbed.

6. After I was handcuffed, I was put inside a police car, I believe by Officer Gallegos. Once I was inside the police car, the door was closed. Officer Gallegos asked me where I lived and I told him. Officer Gallegos then drove to my house which was only about three houses up the block from where I was put in the police car. I was handcuffed with my hands behind my back during the ride and this increased the pain I was feeling in my left shoulder. Officer Gallegos did not ask me if I wanted to have the cuffs taken off and walk home or if I wanted a ride home. I would much rather have been uncuffed and allowed to walk home if I had to leave the area because it was painful to be in the handcuffs but I was not given a choice.

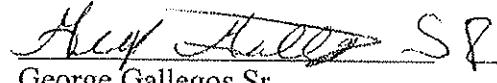
7. Officer Trujillo also drove to my house. A third officer also showed up there.

At some point after I arrived and was taken out of the car, the handcuffs were removed. I spoke with Officer Trujillo. Among other things, Officer Trujillo told me that I was to stay away from the bus stop. I believe I was in handcuffs for around eight minutes or so.

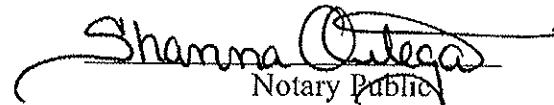
8. I did not have any weapon on me on February 21, 2014. I had not thrown rocks at any car. Prior to being grabbed and handcuffed by the officers, I had not yelled at them, I had not argued with them or threatened them or tried to attack or hit either of them. Nor had I tried to run away. I had simply asked: "What's up?" when I was grabbed.

9. After the officers left my residence, I went inside. My left shoulder area was hurting and I was in a lot of pain. In the month or two prior to February 21, 2014, I had some pain in my left neck and shoulder area and the twisting of my left arm up behind my back had made the pain much, much worse. I was driven by my partner to the Concentra Urgent Care Center in Santa Fe, New Mexico to see a doctor.

10. In the weeks after the incident, the pain in my left shoulder grew worse to the point that I was having problems using my left arm. Some time after going to Concentra, I went to the Espanola Hospital emergency room for treatment. I was referred to Dr. Herbert Rachelson, an orthopedic surgeon, and saw him during the spring of 2014. Dr. Rachelson recommended surgery for my shoulder and performed the surgery around September 2014. From looking at the bills, I know the bill for the surgery, not including Dr. Rachelson's fee, was more than \$15,000 and I believe my total medical expenses, including postoperative physical therapy, exceed \$25,000.00.


George Gallegos Sr.

SUBSCRIBED TO AND AFFIRMED before me this 1 day of January, 2016.


Shanna Ortega
Notary Public

My commission expires: 04-26-16

SEAL:

